

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

TERRY MCNABB,

Plaintiff,

v.

Civ. No. 21-623 GBW/SCY

JAMES R LOBB, *et al.*,

Defendants.

ORDER FINDING AS MOOT MOTION TO DISMISS

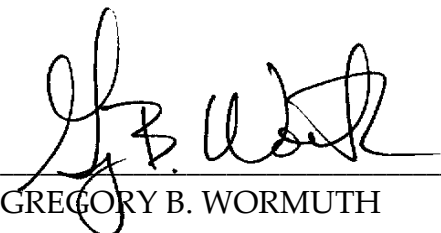
THIS MATTER comes before the Court on review of the record. On July 13, 2021, Defendants Union County and Union County Sheriff's Department filed a Motion to Dismiss in Lieu of Answer Under Rule 1-012(b)(6) and 12(b)(1), contending that they cannot be subjected to suit under N.M. Stat. Ann. § 4-46-1. *Doc. 3*. On July 27, 2021, Plaintiff filed an Amended Complaint removing Defendants Union County and Union County Sheriff's Department and replacing them with Defendant Board of County Commissioners of the County of Union. *Doc. 10*.

Pursuant to Rule 15 of the Federal Rules of Civil Procedure, a party may amend a pleading "once as a matter of course" within 21 days of service of a responsive pleading or Rule 12 motion. Fed. R. Civ. P. 15(a)(1)(B). Plaintiff's Amended Complaint is properly filed under this Rule, and therefore Defendants Union County and Union County Sheriff's Department are no longer included in this case.

IT IS THEREFORE ORDERED that the Motion to Dismiss in Lieu of Answer Under Rule 1-012(b)(6) and 12(b)(1) (*doc. 3*) is DENIED AS MOOT.

IT IS FURTHER ORDERED that the Clerk's Office shall terminate Defendants Union County and Union County Sheriff's Department from the docket.

IT IS SO ORDERED.



GREGORY B. WORMUTH
UNITED STATES MAGISTRATE JUDGE